



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCP

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/051,454 | 01/18/2002 | Carl R. Stanford | 1002.2.91 | 6990 |

7590

08/19/2003

Richard C. Gilmore
Workman, Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

CHAMBERS, MICHAEL S

ART UNIT

PAPER NUMBER

3711

15

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,454

Applicant(s)

STANFORD ET AL.

Examiner

Michael Chambers

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 44-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 44-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features noted below must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

claim 17: "shim insertable underneath"

claim 59: "the elongated support member disposed towards the first set of openings and away from the second set of openings"

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29, and 44-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following claim terms are vague and indefinite:

Claim 1: " a length of the front span" and " a length of the rear span".

Claim 8: "a length selected to permit pivotal motion" and without substantial vertical motion".

Claim 9: " nearer the front side".

Claims 11,19: " to resist bending of the front span".

Claim 56: " an upper portion that is sized and configured to contact the base to help prevent deflection".

Claim 17: " at least one shim insertable underneath the front side".

Claim 18: " disposed between the retaining members".

Claim 45: " a distance separating the second set" and " being smaller than the distance separating the second set".

Claims 46,19: " to resist movement".

Claim 47: " disposed toward the first set of openings" and "away from the second set of openings in the base".

Claim 48: " being sized and configured to contact the base to help prevent deflection".

Claim 49: " sized and configured to contact a lower surface of the base" and "prevent deflection of the base".

Claim 50: " sized and configured to contact an upper surface of the base" and "prevent deflection of the base".

Claim 51: " allow an intermediate support to be inserted through the opening".

Claim 52: " sized and configured to".

Claim 53: " without substantial vertical motion".

Claim 56: " upper portion that is sized and configured to contact the base to help prevent deflection".

Claim 57: " the front portion of the base" and "the rear portion of the base"

Claim 58: " a distance" and "being smaller that the distance"

Claim 59: " disposed towards the first set of openings and away from the second set"

Claim 57: " the front portion of the base"

Claim 60: " allow the basketball goal assembly to be rotated from a generally horizontal position to a generally vertical position to allow the assembly to be connected".

Claim 64: " the front portion of the base to help resist movement".

One of ordinary skill in the art would not be able to clearly determine the metes and bounds of the invention based on the vague claim terms and the existing specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25 - 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Galloway.

Galloway discloses a plurality of retaining members, a base plate, elongated and circular holes (fig 1 and 3). It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have removed the hinge in order to lower the cost of the device and permit less precise placement of the support anchors.

As to claim 26 : Galloway discloses two front and two rear holes (fig 1).

As to claims 27 and 28: Galloway discloses a template with a plurality of holes (fig 1).

As to claim 29 : Galloway discloses a plate with holes such that a portion of the base plate is able to rest on the template (fig 1).

Claims 56, 57 59, 62 and 64 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hying et al.

Hying et al discloses a retaining assembly, a first and second set of retaining members and an intermediate support member (fig 2-4). It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent means of

support and any one of several equivalent positions on the base plate based on design choices and manufacturing cost considerations.

As to claim 57 and 62 : Hying et al discloses two sets of openings generally aligned with the openings in the base (fig 2-4).

As to claims 59 and 64: No criticality is seen in the placement of the goal assembly support member. It is well known in the art to place the pole in various places on the base plate. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent pole placement designs based on manufacturing costs and/or design choices.

Claims 58 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Garhauer. Hying et al discloses the elements of claim 58 however it does not clearly disclose a different distance between the openings of the first and second set. Garhauer discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. The use of various shapes for bases for poles is well known in the art. Garhauer discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

As to claim 61: See claim 58 rejection.

Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 56 in view of Galloway. The cited art does not clearly disclose the use of a slotted hole. Galloway discloses the use of a slotted hole. The use of slotted holes is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a slotted hole in order to permit an easy adjustment means if the base plate is not accurately positioned.

Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art for claim Hying et al in view of Garhauer. Hying et al discloses the elements of claim 58 however it does not clearly disclose a different distance between the openings of the first and second set. Garhauer discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. The use of various shapes for bases for poles is well known in the art. Garhauer discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,6-7,9,20-24,44-47, and 55, are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Garhauer. Smith discloses the elements of claim 1 however it does not clearly disclose a length of front span shorter than a length of rear span. Garhauer discloses a pole base plate where the length of the front span is shorter than the length of a rear span. The use of various shapes for bases for poles is well known in the art. Garhauer discloses a length of a front span shorter than a length of a rear span. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

As to claims 2 and 3 : Smith discloses a plurality of nuts arranged in a substantially rectangular fashion (fig 1 and 8).

As to claims 6 , 7, 21, 22, 45, and 55: Garhauer discloses a trapezoidal configuration and shape (pg 2-pic 1). It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

As to claims 9, 23, 46, and 47,: No criticality is seen in the placement of the support member. It is well known in the art to place the pole in various places on the base plate. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various

equivalent pole placement designs based on manufacturing costs and/or design choices.

As to claim 24: Smith discloses a plurality of intermediate nuts (fig 1).

As to claim 54: Smith discloses a first, second and third set of nuts connected to the retaining members (fig 1).

As to claims 20, 44: See claim 1 rejection.

Claims 4, 48 and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in view of Hying et al. The cited art does not clearly disclose the use of an intermediate support member. Hying et al discloses the use of an intermediate support member (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the support member of Hying et al in order to make the goal more securely attached for safety reasons.

As to claims 48, 49 and 50: See claim 4 rejection.

As to claims 51, and 52: Hying et al discloses an opening. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the support member and opening of Hying et al in order to make the goal more securely attached for safety reasons.

Claims 8 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in view of Galloway. The cited art does not clearly

Art Unit: 3711

disclose the use of a slotted hole. Galloway discloses the use of a slotted hole. The use of slotted holes is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a slotted hole in order to permit an easy adjustment means if the base plate is not accurately positioned.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in view of Official Notice. Official Notice is taken that it is well known in the art to add gussets to a base and pole. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a plurality of gussets in order to strengthen the pole and permit a lighter weight pole to be used.

Claims 11, 18, 19 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Hying et al. Smith discloses the elements of claim 11 however it does not clearly disclose an intermediate support member. Hying et al discloses an intermediate support member (fig 2-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the intermediate support member of Hying et al with the device of Smith in order to more securely attach the goal to the base.

As to claim 18 : Hying et al discloses a intermediate support member disposed between the retaining members (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the intermediate support

Art Unit: 3711

member of Hying et al with the device of Smith in order to more securely attach the goal to the base.

As to claim 19 : Smith discloses a base plate with a plurality of holes formed proximate the rear side (fig 8).

As to claim 56 : See base claim rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

3311333*5156395*5913778*www.garhauermarine
.com

Michael Chambers
Examiner
Art Unit 3711

August 15, 2003


Paul E. Sewell
Supervising Patent Examiner
Group 6100